

15 DEC 1977

N/A

Honorable Daniel K. Inouye, Chairman
Honorable Barry M. Goldwater, Vice Chairman
Select Committee on Intelligence
United States Senate
Washington, D. C. 20510

SSCI
77-0518/F

Dear Sirs:

This is in reply to your letter of 21 November 1977 requesting my comments on Title I of the Intelligence Reorganization and Reform Act of 1977. As you are aware, I have been assigned primary responsibility for assuring that authoritative Administration responses are developed and proposed on all statutory intelligence charter issues and for dealing with the Committee and the Congress on the Administration's position. At this stage in the charter process, I believe it would be appropriate and productive to continue our two-way exchange in the interest of identifying, discussing and, hopefully, resolving differences.

In this spirit, the following general comments on the Committee's latest draft of Title I are offered:

a. Although not a problem of substance, the sheer length of the Title, 67 pages, tends to create problems of implementation and general workability. This problem would be alleviated somewhat if the sections on restrictions and prohibitions were moved to a separate title.

b. There is a need to achieve a better balance between the flexibility needed for an effective intelligence capability and the amount of statutory detail needed to describe and prescribe it. It is not a matter of achieving absolute flexibility in the statute, but of eliminating oppressive detail. Such detail clogs the machinery of Governmental process and tends to bring about results not intended by:

(1) heightening the probability that a particular activity not proscribed either by the letter or spirit of law will be found unauthorized merely for want of a specific statutory authority to conduct it; and

(2) leading to an undesirably cautious mentality tending to freeze all action, regardless of how desirable or proper, which does not fit precisely within the dead center of a grant of authority.

Over-specificity also mandates requirements unmanageable in practice. For example, section 107(e)(7) directs that the Director ensure that differences of judgment in the production of national intelligence are "fully expressed" and that "diverse points of view...are carefully considered." Such a statutory injunction creates a serious problem if it requires that every intelligence product forwarded to policymakers reflect every difference of judgment expressed at every step of the intelligence process (office level, division level, agency level, etc.), regardless of the judgment or quality behind the dissent. I am certain that there is no intent to bury in such dissent that which should be communicated to policymakers with dispatch and clarity, but this could well be the result of section 107(e)(7).

c. There is also a need for better balance between accountability and our nation's need for an effectively directed and administered intelligence capability. The machinery established in this Title for reporting, reviewing, and making recommendations concerning the use of the Contingency Reserve fund, and the conduct of special activities, sensitive collection operations, and counterintelligence tends to immobilize and vitiate the very capabilities which are otherwise authorized in this legislation. Without purporting to speak for the President or the Attorney General, both of whom would be involved in many of the review procedures required by Title I, the time and effort required for such procedures are, in my view, out of all proportion to the desired goal of defining the limits for intelligence activities and ensuring that these are not exceeded.

d. Finally, some of the provisions on reporting to the Congress extend too broadly as to their scope, timing requirements, and levels of reporting, thereby raising potential issues concerning the respective authorities and duties of the Executive and Legislative Branches.

The above comments are admittedly general and have been provided in the interest of continuing our two-way exchange to move forward on charter legislation. As we have discussed on more than one occasion, and as you mention in your letter, close consultation is in our mutual interests.

Thank you for providing me an opportunity for commenting on the Committee's work thus far on Title I. I also look forward to working out the more comprehensive Administration position which legislation of this stature and importance clearly merits.

Yours sincerely,

STANF

STANSFIELD TURNER

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United States Senate

SELECT COMMITTEE ON INTELLIGENCE

(PURSUANT TO S. RES. 404, 94TH CONGRESS)

WASHINGTON, D.C. 20510

Q# 894

November 21, 1977

Admiral Stansfield Turner
Director
Central Intelligence Agency
Washington, D. C.

Dear Admiral Turner:

We enclose a copy of a draft of Title I of the Intelligence Reorganization and Reform Act of 1977 for your review. In accord with the Committee's agreement with the President, this draft, and others that will shortly follow, have not yet been made publicly available. We would very much appreciate any comments or suggestions you have on these drafts in order that we may obtain as much agreement as is possible before the drafts are publicly circulated.

We hope that the process of drafting these charters will be marked by the same spirit of cooperation that characterized the drafting of the Executive Order. While that process was primarily the responsibility of the Executive Branch, and the process of drafting statutes is primarily the responsibility of the Legislative, we continue to believe with the President that it is in everyone's best interests that there be extensive consultation between the two branches.

While the full Committee will be involved at every step of the way, in order that the process be expedited, Senator Huddleston will take the lead for the Committee's efforts in the charter area. We would appreciate your comments on Title I by December 5, 1977.

The Senate Select Committee appreciates your cooperation.

Alpha,

Daniel K. Inouye
Chairman

Barry Goldwater
Vice Chairman

Enclosure

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ALL material relating to Charter Legislation
maintained in Legislation Staff files.

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United States Senate

SELECT COMMITTEE ON INTELLIGENCE

(PURSUANT TO S. RES. 400, 94TH CONGRESS)

WASHINGTON, D.C. 20510

November 21, 1977

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OLC #77-5375

SSCI

77-0481/25

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Director
Central Intelligence Agency
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Alma,

Daniel K. Inouye
Chairman

Barry Goldwater
Vice Chairman

Enclosure

Note: This package was handcarried
from the Hill by [] ate 28 Nov.
Packages were given to OLC, OGC,
IC Staff, and the Director's office []
[] It was not learned until 6 Dec.
that the Director's copy had a letter on
the package, requesting comments by
5 Dec.

6 DEC 1977